

Requesting an Exemption from Standard Compliance

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The U.S. Department of Energy (DOE) established the Alternative Fuel Transportation Program (the Program) and associated regulatory requirements pursuant to the Energy Policy Act of 1992 (EPAct). The Program encompasses the State and Alternative Fuel Provider Fleet Program, which requires covered state government and alternative fuel provider fleets operating under Standard Compliance to acquire a specific percentage of alternative fuel vehicles (AFVs) annually.

The opportunity for covered fleets to request exemptions from their AFV-acquisition requirements serves as administrative relief in the unlikely event a fleet is unable to satisfy its requirements through the normally available compliance alternatives. These alternatives include the acquisition of light-duty AFVs, the acquisition of other, creditable vehicles (e.g., gasoline-fueled hybrid electric vehicles), making certain investments, the purchase of biodiesel for use in medium- or heavy-duty vehicles to the maximum extent allowed, and purchasing or trading banked AFV credits.

This document addresses requests for exemptions from the AFV-acquisition requirements and is intended to help covered fleets better understand:

1. How to file a request for an exemption
2. What information and documentation DOE needs to process an exemption request
3. Important policies relevant for filing exemption requests.

When may exemption requests be filed?

A covered fleet may submit an exemption request only after it has submitted and DOE has approved the fleet's annual report for the relevant model year.

In addition, an exemption request may be submitted no earlier than September 1 following the model year for which the exemption is sought and no later than January 31 following the model year for which the exemption is sought.

What are appropriate bases for an exemption request?

Requests for exemptions from AFV-acquisition requirements may be based on a lack of available alternative fuels and/or a lack of available AFVs.¹ In addition, state government entities may request

exemptions on the basis of unreasonable financial hardship. Covered fleets must apply to DOE to receive exemptions, and DOE reviews these requests on a case-by-case basis.

How should fleets develop and complete exemption requests?

DOE strongly recommends that fleets pursuing exemptions develop an exemption request using one of the following methods:

1. **Request an Exemption Online**
Fleets using this tool can develop an exemption request simply and more easily than using the spreadsheet method. In addition, this tool ensures a complete submittal and thereby speeds up DOE's review and ensures a faster response to each exemption request. The tool automatically loads information from a fleet's annual report, removing a number of labor-intensive steps associated with the spreadsheet method, which is a manual exemption request. The tool is available at afdc.energy.gov/vehiclesandfuels/epact/compliance.
2. **Submit an Exemption Spreadsheet**
Develop a manual exemption request as shown in DOE's *Sample Exemption Request under Standard Compliance*, which is available at eere.energy.gov/vehiclesandfuels/epact/exemptions.html.

Components of a Complete Exemption Request

The following is a checklist of the information that should be included in any exemption request. A fleet completing its exemption request online will, by virtue of using the tool, submit all the items in this checklist because a great deal of this information is loaded automatically into the request the tool generates:

- ☐ Fleet name and address, along with the appropriate contact name and contact information [automatically provided by the tool (APBT)]
- ☐ Model year for which the fleet is seeking exemption(s) (APBT)
- ☐ Number of non-excluded, light-duty vehicles (LDVs) the fleet acquired during the given model year (APBT)
- ☐ AFV-acquisition requirement for the given model year (APBT)

- ❑ Total light-duty AFVs the fleet acquired during the given model year (APBT)
- ❑ Total AFV credits earned during the given model year through the acquisition of other, creditable vehicles (non-AFV electric vehicles) (APBT)
- ❑ Total AFV credits earned during the given model year through creditable investments (APBT)
- ❑ Total volume of biodiesel (in gallons of B100) purchased during the given model year for use, in blends of B20 or higher, in medium- or heavy-duty vehicles (APBT)
- ❑ If biodiesel was not purchased for use in medium- or heavy-duty vehicles up to at least 50% of the fleet's annual AFV-acquisition requirement for the given model year, why not?
- ❑ If non-AFV hybrid electric vehicles (HEVs) were not acquired up to at least 50% of the fleet's AFV-acquisition requirement during the given model year, why not?
- ❑ Total number of banked AFV credits the fleet wishes to apply toward compliance for the given model year (The online tool allows a fleet to modify its annual report by changing the number of banked credits applied.)
- ❑ Number of exemptions requested, including (a) identification of the vehicles for which exemptions are sought, and (b) on what grounds the exemptions are sought (e.g., lack of available alternative fuel, lack of available AFV models) for the given model year
- ❑ For each non-excluded LDV acquired during the model year, the vehicle profile, including (a) acquisition date, (b) make, (c) model, (d) model year of manufacture, (e) vehicle identification number (VIN), (f) fuel type (e.g., gasoline, diesel, compressed natural gas, E85), (g) location (i.e., street address and ZIP code), and (h) gross vehicle weight rating (GVWR) (The online tool will automatically load the data for all the light-duty AFVs and other, creditable vehicles reported for the model year.)
- ❑ Appropriate documentation to support the basis for which an exemption is sought, as described below:
 - **Lack of Available Alternative Fuel:** An exemption request based on lack of available alternative fuel also should provide, as appropriate:
 - ❑ A map of the fleet's service or operating territory
 - ❑ A map indicating the distance of all alternative fueling sites available within a 25-mile radius of each vehicle location for which exemptions are requested. Such a map may be obtained using DOE's Alternative Fueling Station Locator at afdc.energy.gov/locator/stations/
 - Justification supporting any claim that alternative fuel is unavailable as a result of a lack of station accessibility due to unreasonable travel time to a fueling station, limited hours of operation, lack of access to private stations, etc.
 - **Lack of Available AFVs:** An exemption request based on lack of available AFVs also should provide, as appropriate:
 - ❑ Proof of lack of availability of a particular AFV model in the type of LDV the fleet needs. If regional vehicle dealers do not offer AFVs, include documentation from those dealers. If no original equipment manufacturers (OEMs) offer the type of vehicle for which your fleet seeks the exemption, indicate this. For information on available light-duty AFVs and non-AFV HEVs offered by OEMs, see the most recent Fuel Economy Guide at www.fueleconomy.gov
 - ❑ Proof of lack of availability of non-AFV HEV models in the type of LDV the fleet needs
 - ❑ Three years of historical documentation demonstrating your fleet regularly has acquired the vehicles for which exemptions are requested.
 - **Unreasonable Financial Hardship (UFH; available to covered state fleets only):** DOE considers UFH to be the exemption of *very last* resort. Covered state fleets submitting an exemption request based on UFH should provide:
 - ❑ Explanation of why a UFH exemption is warranted
 - ❑ Detail on the steps taken by the fleet to use biodiesel in its medium- and/or heavy-duty vehicles to the maximum extent possible
 - ❑ Total fleet budget for LDV acquisitions and, if known, the number of LDV acquisitions budgeted
 - ❑ The purchase price differential between an AFV (or non-AFV HEV) and a comparable conventional LDV and whether that differential was factored into the budget.

The online tool will automatically generate a PDF of the exemption request with the attachments embedded. Fleets may save and email this PDF to DOE at regulatory.info@nrel.gov.

Both fleets using the online tool and those using the spreadsheet must email their exemption requests to regulatory.info@nrel.gov and mail three copies to:

**Regulatory Manager
Alternative Fuel Transportation Program
Vehicle Technologies Program (EE-2G)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585-0121**

Exemption Review Process

Once DOE receives a **complete** exemption request, it has 45 working days to grant or deny the request. If DOE receives an incomplete exemption request, DOE will contact the fleet to request the missing information. DOE places incomplete exemption requests on hold, and the fleet will have 30 days from the date of DOE's request for additional information to submit *all* the necessary documentation. DOE's 45-working day evaluation window begins when all information is in hand. If a fleet does not provide DOE all requested information within the 30-day holding period, DOE will evaluate the exemption request based on the information provided, which may not be sufficient to support granting the exemption request either in whole or in part.

DOE will provide written notification of its final determination for each complete exemption request received. Exemptions may be granted in whole, granted in part, or denied. Exemption request determinations are final and will not be reconsidered.

Exemption Request Policies

Appeals

As indicated, DOE's exemption request determinations are final. If a fleet disagrees with DOE's determination, it may submit an appeal to the DOE Office of Hearings and Appeals (OHA). The appeal must be filed within 30 days of the date of DOE's determination letter and must be filed with:

**Office of Hearings and Appeals
U.S. Department of Energy
1000 Independence Ave, SW
Washington, DC 20585-0121**

Biodiesel as a Compliance Option

DOE believes biodiesel is a viable option for all fleets unless a fleet provides DOE with information clearly indicating otherwise. As a result, exemption requests **must** address the fleet's use of and/or capacity to use biodiesel fuel blends in any medium- or heavy-duty on-road fleet vehicles.

For fleets seeking exemptions, the only justifications for not using biodiesel are that the fleet lacks medium- or heavy-duty diesel vehicles or proof that fuel suppliers will not make biodiesel fuel available in the fleet's service area. Additional information on how to earn biodiesel fuel use credits toward compliance with AFV-acquisition requirements is at eere.energy.gov/vehiclesandfuels/epact/biodiesel.html.

Non-AFV HEVs as a Compliance Option

DOE notes that non-AFV HEVs and the fuel on which they operate (i.e., gasoline) are widely available throughout the country. Consequently, exemption requests **must** demonstrate why the fleet was unable to acquire non-AFV HEVs and therefore meet at least 50% of its annual AFV-acquisition requirements (because each non-AFV HEV acquired is allocated ½ an AFV credit). For a fleet seeking an exemption, the only justification for not acquiring non-AFV HEVs is that they were not available in the type of LDV the fleet needed. Absent this demonstration, DOE will limit the number of exemptions granted based on the shortfall of non-AFV HEV acquisitions.

Compliance Deficiency

DOE will not process an exemption request in a particular model year for any fleet having an outstanding compliance deficiency from a prior model year. Only after the fleet formally notifies DOE in writing and explains what steps the fleet has taken to correct the outstanding deficiency will DOE review the exemption request. The fleet's explanation must address the steps taken to acquire AFV credits through purchase or trade with another covered fleet, or justification as to why a credit transaction was not completed.

Future Acquisition in Place of a Previous Vehicle Exemption

DOE may require a covered fleet to acquire AFVs in place of all or some of the vehicles exempted in future model years.

¹ Exemption requests should not be confused with requests for exclusion from the Program. Generally, a fleet may be excluded if it does not own, operate, lease, or otherwise control 50 or more LDVs, of which at least 20 are used primarily within any single [Metropolitan Statistical Area \(MSA\) or Consolidated Metropolitan Statistical Area \(CMSA\)](#) and centrally fueled or capable of being centrally fueled.